

ESTTA Tracking number: **ESTTA416791**

Filing date: **06/28/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	CHAMPAGNE LOUIS ROEDERER
Granted to Date of previous extension	07/02/2011
Address	21 BOULEVARD LUNDY REIMS, 51100 FRANCE

Attorney information	John A. Clifford Merchant & Gould 3200 IDS Center80 South Eighth Street Minneapolis, MN 55402-2215 UNITED STATES jclifford@merchantgould.com, aaavery@merchantgould.com, dockmpls@merchantgould.com Phone:612.332.5300
----------------------	--

Applicant Information

Application No	85202395	Publication date	05/03/2011
Opposition Filing Date	06/28/2011	Opposition Period Ends	07/02/2011
Applicant	Waldbroel, Thorsten Friedrichstr. 128 Berlin, 10117 GERMANY		

Goods/Services Affected by Opposition


Class 033. All goods and services in the class are opposed, namely: Sparkling vodka
--

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	662343	Application Date	10/29/1956
Registration Date	05/27/1958	Foreign Priority Date	NONE
Word Mark	CRISTAL LR CHAMPAGNE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U047 (International Class 033). First use: First Use: 1876/05/13 First Use In Commerce: 1937/03/25 CHAMPAGNE

U.S. Registration No.	1163998	Application Date	08/28/1978
Registration Date	08/04/1981	Foreign Priority Date	NONE
Word Mark	CRISTAL CHAMPAGNE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1876/05/13 First Use In Commerce: 1937/03/25 Champagne		

U.S. Application No.	85233105	Application Date	02/03/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CRISTAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1876/05/13 First Use In Commerce: 1937/03/25 Champagne		

Attachments	72018358#TMSN.gif (1 page)(bytes) 85233105#TMSN.jpeg (1 page)(bytes) NOTICE OF OPPOSITION.pdf (6 pages)(186561 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/John A. Clifford/
Name	John A. Clifford
Date	06/28/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CHAMPAGNE LOUIS ROEDERER
Opposer,

v.

THORSTEN WALDBROEL
Applicant.

Opposition No. _____

Serial No.: 85/202,395
Mark : **SAINT CRYSTAL**

NOTICE OF OPPOSITION

To The Assistant Commissioner for Trademarks
ATTN: BOX TTAB
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Sir:

Champagne Louis Roederer, a corporation duly organized and existing under the laws of France, with a mailing address of 21, Boulevard Lundy, 51100 Riems, FRANCE, believes that it will be damaged by the registration of the mark shown in Application Serial No. 85/202,395, filed December 21, 2010 by Thorsten Waldbroel, an individual, with a mailing address of Friedrichstr. 128, Berlin 10117, Germany, and hereby opposes registration of the mark. The grounds for opposition are as follows:

1. By application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the Trademark **SAINT CRYSTAL** for "sparkling vodka," in International Class 33. The application is based on an intention to use the mark pursuant to section 1(b) of the Trademark Act. No Amendment to Allege Use has been filed.

2. Opposer has sold champagne in the United States since at least as early as March 25, 1937 under the mark **CRISTAL CHAMPAGNE LR and Design**, Registration No. 662,343, under the mark **CRISTAL CHAMPAGNE**, Registration No. 1,163,998 and under the mark **CRISTAL**, the subject of Application Serial No. 85/233,105 ("Opposer's Marks"). Since at least March 25, 1937, Opposer has developed significant common law rights in and to Opposer's Marks in the United States. Opposer's Marks are famous and well-known.

3. There is no issue of priority concerning application Serial No. 85/202,395 since Opposer has a first use date at least seventy years prior to Applicant's filing date and Applicant asserts no date of first use in its application for this mark.

4. Opposer's Marks have been in use in interstate commerce, have been advertised and promoted by Opposer or its affiliates, and have developed and represent valuable good will to the benefit of Opposer. Opposer's Marks have trademark significance to purchasers and potential purchasers.

5. Applicant's Mark is confusingly similar to Opposer's Marks. The marks are confusingly similar in sight, sound, and meaning.

6. Applicant's goods are sparkling vodka. Opposer's goods are champagnes. Champagne is a white sparkling wine made in the old province of Champagne, France. The goods sold by Applicant under Applicant's Mark are closely related to the goods to be sold by Opposer under Opposer's Marks. Applicant's marketing material state that its cellar master, Henri Berthe, is an experienced champagne maker who used his skills to develop this product. Applicant describes its product as being made in the French jura region of champagne, being made from materials local to that region, and that its

maker has won several blind tastings against numerous champagne labels. The product is intended to be sold in a champagne bottle, sealed with a cork. Applicant's sales materials state "the bottle's shape pays homage to the champagne process."

7. Applicant intends to trade upon the reputation of Opposer's CRISTAL champagne product and CIRSTAL trademarks and to create confusion, deception and false association in the marketplace.

8. Applicant did not have a bona fide intent to use the SAINT CRYSTAL mark, but rather had the intent to trade upon the goodwill of another in a bad faith manner.

9. Consumers are likely to view Applicant's goods as Opposer's goods or a line extension of Opposer's goods marketed under a confusingly similar mark.

10. Opposer's and Applicant's products may be sold in the same channels of trade to the same consumers or class of consumers.

11. Due to the similarity of Opposer's previously used **CRISTAL CHAMPAGNE LR and Design, CRISTAL CHAMPAGNE**, and **CRISTAL** marks with Applicant's **SAINT CRYSTAL** trademark application and the closely related nature of the goods of the respective parties, customers and potential customers are likely to believe that Applicant's products originate from Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

12. The use or registration by Applicant of the mark **SAINT CRYSTAL** is likely to cause confusion or to cause mistake or deception in the wholesale and the retail trade, and among purchasers and potential purchasers, with Opposer's previously used **CRISTAL CHAMPAGNE LR and Design, CRISTAL CHAMPAGNE**, and **CRISTAL** marks, again resulting in damage to Opposer.

13. Because of the related nature of the goods and the near identity of the marks, use and registration of the mark **SAINT CRYSTAL** by Applicant is likely to cause confusion, mistake, or deception that Applicant's goods are those of Opposer or are otherwise endorsed, sponsored, or approved by Opposer causing further damage to Opposer.

14. Registration of the mark shown in Application Serial No. 85/202,395 will result in damage to Opposer under provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to this application be sustained and that the registration of the term **SAINT CRYSTAL** set forth therein be refused.

Please direct all correspondence to the attention of:

John A. Clifford
Merchant & Gould P.C.
P.O. Box 2910
Minneapolis, MN 55402-0910
612-336-4616
Fax: 612-332-9081

Opposer hereby appoints; Heather Kliebenstein, Brian H. Batzli, Reg. No. 32,960; John A. Clifford, Reg. No. 30,247; Gregory C. Golla; Scott W. Johnston, Reg. No. 39,721; D. Randall King; Andrew S. Ehard; Christopher J. Schulte and Danielle I. Mattessich as its attorneys with the full power to represent the Opposer in connection with this proceeding.

Please charge any excess fees to Deposit Account No. 13-2725 of Opposer's counsel noted above.

Respectfully submitted,

CHAMPAGNE LOUIS ROEDERER

By its attorneys,

A handwritten signature in cursive script, appearing to read "John A. Clifford", written over a horizontal line.

John A. Clifford
Merchant & Gould P.C.
PO Box 2910
Minneapolis, MN 55402
612.332.5300


Dated: June 28, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served, via first-class mail, postage prepaid on Christopher Ditico this 28 day of June 2011.

Christopher Ditico
1580 W. El Camino Real Suite 8
Mountain View, CA 94040-2462

Date: 28 JUNE 2011


John A. Clifford